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ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRED LEWIS, individually and on behalf of
 all others similarly situated,

Case No.: C 08-02297 MMC

Plaintiff,

CLASS ACTION

v.

**FIRST AMENDED COMPLAINT TO
 RECOVER STATUTORY DAMAGES FOR
 UNLAWFUL DEBT COLLECTION
 PRACTICES**

RJM ACQUISITIONS LLC,

Defendant.

JURY DEMAND

I. INTRODUCTION

1. In this action, Plaintiff challenges Defendant's practice of sending to California consumers collection letters that are false, deceptive, and misleading, thereby violating the anti-deception provisions of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e, *et seq.*

Firstly, the collection letters fail to comply with the notice requirements of reporting negative credit information to credit reporting agencies. Secondly, the collection letter fails to disclose to the least sophisticated consumer that payment of the debt with a credit card will renew the original debt that is time-barred from collection in California courts.

Plaintiff seeks statutory damages for the class of a sum not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the Defendant, a sum of \$1,000 for the Plaintiff, attorney's fees, and costs.

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 & 1337.

3. Venue lies in this district pursuant to 28 U.S.C. § 1391(b).

III. PARTIES

4. Plaintiff, FRED LEWIS ("Mr. Lewis"), is an adult male who resides at 5360 Fulton Street, San Francisco, California.

5. Defendant, RJM ACQUISITIONS LLC ("RJM"), is a business entity engaged in debt collection that has a principal place of business located at 575 Underhill Blvd., Suite 224, Syosset, NY 11791-3411. Defendant RJM is a debt collector pursuant to the provisions of 15 U.S.C. § 1692a(6).

IV. FACTUAL ALLEGATIONS

6. In February, 1992, Mr. Lewis opened an account with HSBC Gold Mastercard for the purchase of goods and services for his personal needs.

7. Mr. Lewis was unable to pay the credit card debt, and last paid sometime in April, 2003.

8. Sometime thereafter, Defendant RJM bought Plaintiff's debt, and thousands of other debts like Plaintiff's debt, for pennies on the dollar, from HSBC and others.

9. On January 14, 2008, Mr. Lewis received from Defendant RJM the attached two-sided letter, Exhibits A and B.

10. The letter was a form letter, as shown by the form number at the lower right of Exhibit A.

11. The same or similar letters were sent to more than 40 California consumers.

12. The collection letter states, *inter alia*

As required by law, we are informing you that we have submitted negative information regarding this account to TransUnion and Experian.

13. Both California and federal law require a creditor to notify a consumer of its

1 intention to submit negative credit information to a consumer reporting agency.

2 14. On information, Plaintiff alleges that the original creditor made a negative credit
3 report to the credit bureau and gave the consumer notice of its intention to file a negative report.

4 15. The law does not require a creditor to give additional notice of the reporting of
5 negative information to a credit bureau.

6 16. Further, the law does not require Defendant to inform the consumer that it has
7 submitted a negative credit report.

8 17. The collection letter, after its false, deceptive and misleading statement regarding
9 the credit report, follows with three settlement “opportunities.”

10 18. The settlement opportunities are purported to settle the debt incurred to HSBC in
11 1992. However, the consumer paying by credit card is told that by using a “credit card option”
12 the consumer is entering into a new loan agreement with Defendant replacing any other
13 agreement with regard to the account.

14 19. The Defendant fails to disclose that payment with the credit card will renew the
15 original debt that is time-barred from enforcement in California courts.

16 20. At all times relevant hereto, the unlawful conduct of the Defendant, as well as that
17 of its agents, servants and/or employees, did not result from an isolated or solitary instance of
18 human error, but rather was willful, intentional, in reckless disregard of the FDCPA, and
19 consistent with Defendant’s corporate policy.

20 **V. CLASS ALLEGATIONS**

21 21. Plaintiff brings this action individually and as a class action, pursuant to Rules
22 23(a) and 23(b) of the Federal Rules of Civil Procedure, on behalf of the following Class: All
23 persons in the State of California during the one-year period prior to the filing of the original
24 Complaint and up through the time of judgment of this action who: (a) received the two-sided
25 letter attached hereto as Exhibits A and B.

26 22. The Class is so numerous that joinder of all members is impracticable. Although
27 the precise number of Class members is known only to Defendant, Plaintiff avers upon
28 information and belief that the Class numbers is in the thousands.

1 23. There are questions of law and fact common to the Class that predominate over
2 any questions affecting only individual Class members. The principal question is whether the
3 Defendant violated the FDCPA by sending a collection letter that violates the anti-deception
4 provision of the FDCPA, i.e., 15 U.S.C. § 1692e, *et seq.*

5 24. Plaintiff's claims are typical of the claims of the Class, which all arise from the
6 same operative facts and are based on the same legal theories.

7 25. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff is
8 committed to vigorously litigating this matter. Further, Plaintiff has retained counsel highly
9 experienced in class action litigation to prosecute his claims and those of the Class.

10 26. This action should be maintained as a class action because the prosecution of
11 separate actions by individual members of the Class would create a risk of inconsistent or
12 varying adjudications with respect to individual members which would establish incompatible
13 standards of conduct for the parties opposing the Class, as well as a risk of adjudications with
14 respect to individual members which would as a practical matter be dispositive of the interests of
15 other members not parties to the adjudications or substantially impair or impede their ability to
16 protect their interests.

17 27. Defendant has acted or refused to act on grounds generally applicable to the Class,
18 thereby making appropriate final injunctive relief or corresponding declaratory relief with respect
19 to the Class as a whole.

20 28. A class action is a superior method for the fair and efficient adjudication of this
21 controversy. The interest of Class members in individually controlling the prosecution of
22 separate claims against Defendant is small as the maximum statutory damages are limited to
23 \$1,000.00 under the FDCPA. Management of the Class claims is likely to present significantly
24 fewer difficulties than those presented in many individual claims. The identities of the Class
25 members may be obtained from Defendant's records.

26 **VI. CLAIM FOR RELIEF**

27 (Violation of the FDCPA)

28 29. Plaintiff incorporates the foregoing paragraphs as though the same were set forth

1 at length herein.

2 30. Pursuant to 15 U.S.C. § 1692k, Defendant is liable for violating the FDCPA by
3 engaging in the following conduct violative of 15 U.S.C. § 1692e, *et seq.*

4 A. using false, deceptive, and misleading representations regarding the legal
5 requirement for reporting negative credit information to a credit bureau;

6 B. Using false representations as to the legal requirement to inform
7 consumers that it has submitted negative information regarding the account;

8 C. failing to provide the least sophisticated consumer with notice that paying
9 with a credit card would renew a time-barred debt.

10 31. Due to Defendant's violation of the FDCPA, Plaintiff is entitled to damages not to
11 exceed \$1,000, and the Class is entitled to statutory damages in the amount of the lesser of
12 \$500,000 or 1% of the Defendant's net worth.

13 **VII. JURY TRIAL DEMAND**

14 32. Plaintiff demands trial by jury on all issues so triable.

15 **VIII. PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff seeks judgment in favor of himself and the Class for the
17 following:

18 A. Statutory damages in the amount of the lesser of \$500,000 or 1% of Defendant's
19 net worth;

20 B. Statutory damages in favor of Plaintiff not to exceed \$1,000;

21 C. Costs and reasonable attorneys' fees pursuant to section 15 U.S.C. § 1692k(a)(3)
22 of the FDCPA.

23 D. Such other and further relief as may be necessary, just and proper.

24 Dated: 6/14/97

25 /s/
Irving L. Berg
26 ATTORNEY FOR PLAINTIFF
27
28

EXHIBIT A

RJM Acquisitions LLC
PO Box 18006
Hauppauge, NY 11788-8806
1008878569000001RJM062011408



PERSONAL & CONFIDENTIAL

499 628 00088904 A
507840

RJM Acquisitions LLC
575 Underhill Blvd. Suite 224
Syosset, NY 11791-3416
(516) 714-1300
Fax No. (516) 714-1310
Thurs 8am-7pm, Fri 8am-3pm

January 14, 2008

RECEIVED 1-24-08
[Signature]



FRED D LEWIS
5360 FULTON ST
SAN FRANCISCO CA 94121-3534

For Payments or Inquiries Only

Call Toll-Free (800) 491-2933

RJM File # 1008878569

OG2 000 001

WELCOME, FRED D LEWIS, TO RJM'S GIFT/REWARD PROGRAM

Original/Previous creditor † HSBG GOLD MASTERCARD
Account # † 5215077335009641
RJM file number † 1008878569
Balance due † \$5,345.95
Social Security Number † 56***12*

As you recall, RJM Acquisitions LLC ("RJM") has purchased the above referenced account. As required by law, we are informing you that we have submitted negative information regarding this account to Trans-Union and Experian.

We would like to extend to you the following 3 opportunities.

OPPORTUNITY #1



Sony Notebook Computer 160GB HD From The Maple Collection

SETTLE THIS ACCOUNT FOR \$4,276.76 AND RECEIVE A GIFT FROM RJM

RJM would like to offer you a settlement of \$4,276.76, a savings of \$1,069.19 off the balance due of \$5,345.95, AND a valuable gift!

Here is how RJM's Gift/Reward Program works:

- ♦ Select a gift from the Maple Collection and complete the tear-off section below (see the enclosed gift/reward catalog for a sampling of gift choices, or log onto www.total-awards.com/RJM to view all gift choices in the Maple Collection).
- And
- ♦ Send us your first monthly payment of \$100.00 towards the settlement balance of \$4,276.76.
- ♦ After you send us a total of \$4,276.76 in accordance with this offer, your account will be Satisfied in Full, and the gift you selected will be shipped to you, free of charge* (Shipping, handling and taxes are also paid by RJM).

*All gift items are shipped brand new, factory packed and sealed, and come with all manufacturers warranties.

OPPORTUNITY #2

SETTLE THIS ACCOUNT FOR \$3,207.57 (A 40% OFF DISCOUNT) PAYABLE AT \$50.00 PER MONTH

If Opportunity #1 does not interest you, RJM would like to offer you a settlement of \$3,207.57, a 40% discount (off the balance due of \$5,345.95), to be paid in monthly payments of \$50.00.

OPPORTUNITY #3

PAY ONLY \$25.00 PER MONTH MONTHLY PAYMENT OF

\$25.00

LOWEST MONTHLY
PAYMENT!

If you cannot take advantage of Opportunity #1 or #2, RJM is pleased to accept \$25.00 per month until the balance due of \$5,345.95 is paid.

Please respond by February 28, 2008. Upon completion of any of the above offers, your account will be Satisfied in Full.

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose. Please see Important Information on reverse side.

*If the partial social security number listed above does not match your social security number, please contact this office.

* Detach Here *

Name: FRED D LEWIS

* Detach Here *

RJM File Number: 1008878569
Gift Collection: Maple Collection

Yes, I would like to take advantage of:

☐ OPPORTUNITY #1:



OG2 000 001

WELCOME, FRED LEWIS, TO RJM'S GIFT/REWARD PROGRAM

Original/Previous creditor † HSBC GOLD MASTERCARD
 Account # † 5215077335009641
 RJM file number † 1008878569
 Balance due † \$5,345.95
 Social Security Number † 58-***-123

As you recall, RJM Acquisitions LLC ("RJM") has purchased the above referenced account. As required by law, we are informing you that we have submitted negative information regarding this account to Trans-Union and Experian.

We would like to extend to you the following 3 opportunities.

OPPORTUNITY #1

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 AND RECEIVE A GIFT FROM RJM**

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- And
- ♦ Send us your first monthly payment of \$100.00 towards the settlement balance of \$4,276.76.
- ♦ After you send us a total of \$4,276.76 in accordance with this offer, your account will be Satisfied In Full, and the gift you selected will be shipped to you, free of charge* (Shipping, handling and taxes are also paid by RJM).

*All gift items are shipped brand new, factory packed and sealed, and come with all manufacturers warranties.

OPPORTUNITY #2

SETTLE THIS ACCOUNT FOR \$3,207.57 (A 40% OFF

DISCOUNT) PAYABLE AT \$50.00 PER MONTH

If Opportunity #1 does not interest you, RJM would like to offer you a settlement of \$3,207.57, a 40% discount (off the balance due of \$5,345.95), to be paid in monthly payments of \$50.00.

OPPORTUNITY #3

PAY ONLY \$25.00 PER MONTH

MONTHLY PAYMENT OF

\$25.00

LOWEST MONTHLY PAYMENT

If you cannot take advantage of Opportunity #1 or #2, RJM is pleased to accept \$25.00 per month until the balance due of \$5,345.95 is paid.

Please respond by February 28, 2008. Upon completion of any of the above offers, your account will be Satisfied In Full.

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose. Please see important information on reverse side.

If the partial social security number listed above does not match your social security number, please contact this office.

* Detach Here *

Name: FRED D LEWIS

* Detach Here *

RJM File Number: 100887856
 Gift Collection: Maple Collection

Yes, I would like to take advantage of:

☐ **OPPORTUNITY #1:**

Enclosed is my first payment of \$100.00 towards the settlement balance of \$4,276.76. Please ship the gift I have selected after I complete this offer. Please send me a receipt.

Name of Gift/Description _____ Gift # _____

☐ **OPPORTUNITY #2:**

Enclosed is my first payment of \$50.00 towards the settlement balance of \$3,207.57 (a 40% off discount). Please send me a receipt.

☐ **OPPORTUNITY #3:**

Enclosed is my first payment of \$25.00 towards the balance due of \$5,345.95. Please send me a receipt.

☐ Other _____



PLEASE COMPLETE THIS SECTION ONLY IF PAYING BY CREDIT CARD



Card No. _____

Expiration Date: _____ Amount: _____

Cardholder Name: _____

Signature: _____ Date: _____

By selecting the credit card option, you are entering into a new loan agreement with RJM Acquisitions LLC replacing any other agreement with regard to this account.

EXHIBIT B



IMPORTANT INFORMATION ABOUT YOUR DEBT

We are required under certain applicable laws to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under federal and state law.

If this is the first communication you have received from us regarding this debt, please be aware that this communication is from a debt collector, and it and others from us are an attempt to collect a debt. Any information obtained will be used for that purpose. This debt is owed to RJM Acquisitions LLC. Unless you dispute the validity of all or part of this debt within 30 days after receipt of this notice, we will assume the debt is valid. If you notify us in writing within the 30-day period, we will mail a copy of verification of the debt or the judgment to you and will provide you with the name and address of the original creditor for this debt.

Your acceptance of the offer(s) described on the reverse side of this letter prior to the expiration of the 30-day period for dispute described above will not extinguish your right to dispute all or part of the original debt. All disputes within the 30-day dispute period will be honored.

The state of California requires that we disclose the following for California Residents: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

The state of Colorado requires that we disclose the following for Colorado Residents: For information about the Colorado Fair Debt Collection Practices Act, see www.ago.state.co.us/cadc/cadcmain.cfm.

The commonwealth of Massachusetts requires that we disclose the following for Massachusetts Residents: You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the collection agency.

The state of North Carolina requires that we disclose the following for North Carolina Residents: RJM Acquisitions LLC is licensed by the North Carolina Department of Insurance under permit number 3952.

New York City: License number 1250735.

If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 362;524) regarding the subject matter of this communication, the following applies to you: **THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT, ASSESS, OR RECOVER A CLAIM IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.**

00085964 A

New Address? Has anything changed?

If yes, check box ☐ and make changes below.

New Address:

From NO. 974 013

05/06/2008 13:33 COLOUR DROP → 8918208

address of the original creditor for this debt.

Your acceptance of the offer(s) described on the reverse side of this letter prior to the expiration of the 30-day period for dispute described above will not extinguish your right to dispute all or part of the original debt. All disputes within the 30-day dispute period will be honored.

The state of California requires that we disclose the following for California Residents: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

The state of Colorado requires that we disclose the following for Colorado Residents: For information about the Colorado Fair Debt Collection Practices Act, see www.ago.state.co.us/cadc/cadomain.cfm.

The commonwealth of Massachusetts requires that we disclose the following for Massachusetts Residents: You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the collection agency.

The state of North Carolina requires that we disclose the following for North Carolina Residents: RJM Acquisitions LLC is licensed by the North Carolina Department of Insurance under permit number 3952.

New York City: License number 1250735.

If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. § 362;524) regarding the subject matter of this communication, the following applies to you: THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT, ASSESS, OR RECOVER A CLAIM IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.

00085964 A

From		
Street		
City	ST	Zip

New Address? Has anything changed?		
If yes, check box <input type="checkbox"/> and make changes below.		
New Address: _____		
City	State	Zip
New Name: _____		
Phone Number: _____		

RJM File # 1008878569
Re: FRED D LEWIS
Gift Collection: Maple Collection

- ✓ Make your check or money order payable to RJM Acquisitions LLC.
- ✓ Be sure the address to the right appears in the return envelope window.
- ✓ Write your RJM File # on your payment or



RJM Acquisitions LLC
575 Underhill Blvd. Suite 224
Syosset, NY 11791-9827